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28 May 2004

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Your Ref : BA/NORMALSEC45/3

Examiner's first report on patent application no. 57799/00
by J. Alexander MARCHOSKY

Last proposed amendment no. 1

Dear Madam/Sir,

I am replying to the request for examination. I have based this report on the pamphlet and the statement of proposed amendments under S104 of January 2003. I have examined the application and I believe that there are lawful grounds of objection to the application. These grounds of objection are:

- 1 Claim 2 does not define the invention. The specification discloses a composition comprising: one or more angiogenesis-stimulating materials as listed in part (a) of claim 1; one or more osteoinductive materials as listed in part (b) of claim 1; one or more scaffolding materials as listed in part (c) of claim 1; and one or more gel materials as listed in part (d) of claim 1. In contrast, claim 2 is drawn to compositions comprising any angiogenesis-stimulating material; any osteoinductive material; any scaffolding material; and any gel material. There is no indication of the identity of the components of the composition. Without limitation of the claims to compositions comprising one or more of the components as listed in parts (a) to (d) of claim 1, the composition is not technically defined.
- 2 Claim 2 and 56 are not novel and claims 57 to 60 do not involve an inventive step in light of the following document:

D1 EP 0522569 A1

The document discloses a composition for bone repair that comprises hyaluronic acid in combination with compounds including fibroblast growth factor, demineralized bone and cancellous bone (page 4, lines 33-42). Consequently, D1 deprives claims 2 and 56 of novelty. Also, an inventive step is not acknowledged for claims 57 to 56. Given that D1 discloses a composition suitable for bone repair, the methods defined in claims 57 to 60 are considered to represent obvious and non-inventive applications of the composition disclosed in D1.

You have 21 months from the date of this report to overcome all my objections otherwise your application will lapse. You will need to pay a monthly fee for any response you file after 12 months from the date of this report.

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